

AN ACT

ENTITLED, An Act to revise certain provisions regarding veterans credited service and benefits under the South Dakota Retirement System and under the South Dakota deferred compensation plan.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 3-12-47 be amended by adding thereto a NEW SUBDIVISION to read as follows:

"Qualified military service," service in the uniformed services as defined in § 414(u)(5) of the Internal Revenue Code as in effect on January 1, 2011;

Section 2. That § 3-12-86 be amended to read as follows:

3-12-86. A member shall receive credited service for leave of absence due to qualified military service, authorized in advance by the employer, without contribution by the employee or employer if the member returns to the employ of a participating unit within one year from the member's date of discharge from the member's initial period of qualified military service and if the member remains in the employ of a participating unit for at least one year. The member may not receive credited service for any voluntary extension of qualified military service at the instance of the member beyond the initial period of enlistment, induction, or call to active duty. Credited service granted under this section shall be only for the initial period of time that the member is performing qualified military service. No credited service granted under this section may be considered to represent either member contributions or employer contributions for purposes of contribution withdrawals pursuant to this chapter.

If the member returns to the employ of the member's employer unit within one year of discharge from the initial period of qualified military service, but does not remain in the employ of the unit for at least one year, the member shall be granted credited service for the initial period of qualified

military service pursuant to § 414(u)(8) of the Internal Revenue Code as in effect on January 1, 2011, if the member deposits with the system employee contributions for the initial period of the qualified military service as provided for in § 414(u)(8)(C). The contributions shall be made in a lump sum, shall be based on the member's compensation immediately prior to the leave of absence, and shall be without interest. The participating unit that was the member's employer prior to the leave of absence shall deposit employer contributions in an equal amount with the system. Other provisions of this chapter notwithstanding, the member need not be a contributing member at the time the member deposits the contributions. The member is subject to the time limitations for payment provided for in § 414(u)(8)(C).

Section 3. That chapter 3-12 be amended by adding thereto a NEW SECTION to read as follows:

If a member on leave of absence performing initial qualified military service dies, the member shall be considered to have returned from the leave of absence on the day prior to the member's death and become a contributing member for purposes of survivor benefits pursuant to § 3-12-95, if the member has at least one year of credited service prior to the member's death, including the initial period of qualified military service. If the member was contributing for additional survivor protection benefits pursuant to § 3-12-104 immediately prior to the leave of absence, the member shall be considered to have resumed such contributions on the day prior to the member's death.

If a member on leave of absence performing initial qualified military service becomes disabled pursuant to the disability criteria set out in chapter 3-12 and ARSD chapter 62:01:04, the member shall be considered to have returned from the leave of absence on the day prior to the member's discharge date and become a contributing member for purposes of eligibility for disability benefits pursuant to § 3-12-98, if the member has at least three years of credited service including the period of initial qualified military service. The provisions of § 3-12-98 notwithstanding, the member need not have been deemed to be a contributing member on the date of the member's disabling event.

Section 4. That § 3-13-54 be amended to read as follows:

3-13-54. The board may promulgate rules pursuant to chapter 1-26 concerning the time and amount of compensation which may be deferred, the persons who may participate in the plan, the conditions of participation, the time and manner in which accumulated deferrals may be made available to a participant or beneficiary, the establishment of administrative changes, and participation by political subdivisions. Except pursuant to the provisions of an automatic enrollment feature established under subdivision 3-13-56(4), in no event may the accumulated deferred compensation become available to the participant prior to thirty days following the participant's separation from employment with a participating employer unless the participant is faced with an unforeseeable emergency as determined by the board, unless an in-service distribution of a small amount of funds is made, or unless a distribution is made to a participant who has been called to perform qualified military service for a period in excess of thirty days. If a participant returns to service with a participating employer within thirty days following separation from service, the accumulated deferred compensation is not available to the participant.

An Act to revise certain provisions regarding veterans credited service and benefits under the South Dakota Retirement System and under the South Dakota deferred compensation plan.

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I certify that the attached Act  
originated in the

HOUSE as Bill No. 1022

\_\_\_\_\_  
Chief Clerk  
\_\_\_\_\_

\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

House Bill No. 1022  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

\_\_\_\_\_  
Received at this Executive Office  
this \_\_\_\_\_ day of \_\_\_\_\_ ,

20\_\_\_\_ at \_\_\_\_\_ M.

By \_\_\_\_\_  
for the Governor  
\_\_\_\_\_

The attached Act is hereby  
approved this \_\_\_\_\_ day of  
\_\_\_\_\_, A.D., 20\_\_\_\_

\_\_\_\_\_  
Governor  
\_\_\_\_\_

STATE OF SOUTH DAKOTA,  
ss.  
Office of the Secretary of State

Filed \_\_\_\_\_, 20\_\_\_\_  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State